

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY SESSION, 1995

**FILED**

**May 17, 1996**

**Cecil Crowson, Jr.**  
Appellate Court Clerk

STATE OF TENNESSEE )  
 )  
 APPELLANT )  
 )  
 V. )  
 )  
 GREGORY JAMES TAYLOR )  
 )  
 APPELLEE )

NO. 02C01-9409-CC-00193

MADISON COUNTY

HON. WHIT LAFON  
JUDGE

(Motion to Suppress)

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REVERSED AND REMANDED

OPINION FILED: \_\_\_\_\_

JERRY SCOTT, SPECIAL JUDGE

## OPINION

This is an appeal by the State from a judgment granting a motion to suppress evidence seized pursuant to a search warrant pursuant to Rule 9, Tenn. R. App. P.

The only witness was the defendant who testified that at about 12:30 or 12:45 A.M. on October 11, 1993 he lived in a duplex on West King Street in Jackson. There was a knock on the door and two men, Greg Robison and Danny Mullican identified themselves as members of the Drug Task Force. They told the defendant that they wanted to talk with him about the occupant of the other side of the duplex, whom they had on drug charges. By his own testimony, he invited the officers into his duplex. While they were there talking to him they began immediately “looking around” as he talked with them. One of the officers stepped outside. When he returned, he found a marijuana “roach” in an ashtray.

The officers asked for permission to search. The defendant refused, so they obtained a search warrant, conducted a search and found the marijuana and drug paraphernalia which gave rise to the prosecution.

The trial judge granted the defendant’s motion to suppress. Without further elaboration, he found that “the search was bad.”

Both the State and the defendant rely on State v. Clark, 844 S.W.2d 597, 599 (Tenn. 1992) in which officers entered the defendant’s apartment without permission and later obtained a search warrant based on their observation of contraband during their non-consensual entry.

In this case, the officers had the defendant’s consent to enter his portion of the duplex. Therefore, they were lawfully on the premises. Based on the marijuana roach

they observed from their legal vantage point, they certainly had reasonable grounds to believe that a crime was being committed, justifying the ultimate issuance of the search warrant.

The judgment sustaining the motion to suppress is reversed. The cause is remanded to the trial court for trial or other proceedings.

JERRY SCOTT, SPECIAL JUDGE

CONCUR:

JOSEPH M. TIPTON, JUDGE

DAVID A. WELLES, JUDGE